

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 7095

BILL NUMBER: HB 1326

NOTE PREPARED: Dec 31, 2003

BILL AMENDED:

SUBJECT: Direct Shipment of Wine.

FIRST AUTHOR: Rep. Dobis

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill allows a vintner located outside Indiana to ship wine directly to an Indiana resident for personal use if the vintner holds an out-of-state shipper's permit. It requires the holder of an out-of-state shipper's permit to pay the Sales Tax and excise tax on wine directly shipped to an Indiana resident.

Effective Date: July 1, 2004.

Explanation of State Expenditures: *Alcohol and Tobacco Commission (ATC):* The provisions in the bill could have an administrative impact on the Commission as they would require it to promulgate rules and develop procedures for administering the out-of-state shipper's permit. It is presumed that any impact will be covered using existing staff and resources.

Department of State Revenue: This bill could have a minimal impact on the Department in so far as it would need to develop procedures to collect excise and sales taxes from the holders of out-of-state shipper's permits.

Penalty Provision: Violators of the bill's provisions would be subject to unlawful transporting provisions under IC 7.1-5-11. Criminal penalties under IC 7.1-5-11 include a Class D felony for transporting taxable alcohol beverages without paying the required taxes. A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. Any additional expenditures on prison costs are likely to be small.

Explanation of State Revenues: *Permit Fee Revenue:* This bill creates the out-of-state shipper's permit. The

permit allows out-of-state wine sellers to sell wine directly to Indiana residents. Permit holders are limited to selling 24 bottles of wine each month to each Indiana buyer. The permit fee is \$100 the first year. The annual renewal fee is \$50. Any revenue generated from the issuance of these permits would be deposited in the Alcohol and Tobacco Commission's Enforcement and Administration Fund. It is not known how many firms would obtain the permit created in this bill.

Alcoholic Beverage Excise Taxes: The bill requires a holder of an out-of-state shipper's permit to remit sales and excise taxes directly to the Department of State Revenue. The bill also requires permit holders to report sales information to the Commission. If these provisions increase tax collections, state revenue would increase. The \$0.47 per gallon wine excise tax is distributed to the following funds: state General Fund (\$0.20), the Post War Construction Fund (\$0.16), the ATC Enforcement and Administration Fund (\$0.04), the Addiction Services Fund (\$0.02), and the Wine Grape Market Development Fund (\$0.05). The state retains 50% of the General Fund distribution of beer and wine excise tax revenue. The remainder is distributed to cities and towns based on population.

Sales Tax revenue is deposited in the: Property Tax Replacement Fund (50%), the state General Fund (49.192%), the Public Mass Transportation Fund (0.635%), the Commuter Rail Service Fund (0.14%), and the Industrial Rail Service Fund (0.033%).

Penalty Provision: If additional court cases occur and fines are collected, revenue to both the Common School Fund (from criminal fines) and the state General Fund (from court fees) would increase. The maximum fine for a Class D felony is \$10,000. However, any additional revenues would likely be small.

Explanation of Local Expenditures: *Penalty Provision:* If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. However, any additional expenditures would likely be small.

Explanation of Local Revenues: Fifty-percent of the General Fund distribution of the excise tax on wine is retained in the state General Fund. The remaining 50% is allocated to cities and towns based on population.

Penalty Provision: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from court fees. However, the amounts would likely be small.

State Agencies Affected: Alcohol and Tobacco Commission; Department of State Revenue.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: http://www.wineinstitute.org/shipwine/analysis/intro_analysis.htm

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